

Remarks

The Office Action dated June 15, 2010 has been carefully considered. Applicants respectfully request reconsideration of the claims in light of the below remarks.

Claim Rejections – 35 USC § 103

In paragraph 3 of the Office Action, claims 1-6, 8-10, 18-20, 23, 24, and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mukaida et al. (EP 0 612 533 A1 or US 5,672,419) in view of Sun et al. (US 6,124,391). Applicants respectfully submit that the rejection is in error because Mukaida explicitly teaches away from the use of less than 0.5 parts by weight of resin.

Paragraph 13 of the Office Action states, “Regarding the new limitations in claims 1 and 18 requiring 0.001 to less than 0.3 percent by weight of the polymer of a thermoplastic adhesive, a *prima facie* case of obviousness exists where the claimed ranges and prior art ranges do not overlap but are close enough that one skilled in the art would have expected them to have the same properties.” (citing *Titanium Metals Corp. of America v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir.1985)). However, section 2144.05 III of the MPEP provides that “[a] *prima facie* case of obviousness may also be rebutted by showing that the art, in any material respect, teaches away from the claimed invention.” (citing *In re Geisler*, 116 F.3d 1465, 43 USPQ2d 1362, 1366 (Fed. Cir. 1997)).

Mukaida teaches “a water absorbent composition comprising 100 parts by weight of water absorbing polymer particles and 0.5 to 30 parts of a resin powder having heat adhesion propriety at 50°–200° C.” Abstract (emphasis added). Mukaida teaches that the amount of resin should not drop below 0.5 parts by weight because “not only [does the] adhesion of the water absorbing polymer particles (A) to fibrous material (C) lower[], but also the shape-retaining property of water absorbing material after water absorption is degraded.” Col. 5, ll. 63-67. In keeping with this statement, the Examples of Mukaida do not teach the use of resin lower than seven parts by weight. Col. 9, ll. 5 – col. 14, ll. 65. The disclosure of Mukaida teaches away

from the use of less than 0.5 parts by weight of resin in a water absorbent composition. In giving the reasons for not using less than 0.5 parts by weight of resin in a water absorbent composition, Mukaida teaches one having ordinary skill in the art that the properties of the water absorbent composition are not the same with less than 0.5 parts by weight of resin as a water absorbent composition having 0.5 to 30 parts by weight of resin. Therefore, the use of less than 0.5 parts by weight of resin in a water absorbing composition as disclosed in the current invention would be unexpected to one having ordinary skill in the art.

Sun et al. does not cure the deficiencies of Mukaida. Neither Mukaida nor Sun et al., alone or in combination, teach, suggest or disclose the elements of the current invention. In light of these remarks, Applicants respectfully request the examiner withdraw the rejection of claims 1-6, 8-10, 18-20, 23, 24, and 26-28.

Double Patenting

In paragraph 14 of the Office Action, claims 1-6, 8-10, 18-20, 23, 24, 26, and 27 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 11, and 24 of U.S. Patent No. 7,173,086 B2. Applicants have attached hereto a Terminal Disclaimer disclaiming the claims in favor of U.S. Patent No. 7,173,086.

Conclusion

In light of the remarks presented herein, Applicants submit that the present application is in condition for allowance, and such action is respectfully requested. If, however, any issues remain unresolved, the Examiner is invited to telephone Applicants' counsel at the number provided below.

Respectfully submitted,

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Date: July 28, 2010

File No. 5003073.071US1

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